

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

**Juan O'Neill Estrada,
Maria Benita Nuñez Adames,
and their Conjugal Partnership**
Plaintiffs
v.
**Home Mortgage Bankers,
US Department of Housing and
Urban Development, Federal
Housing Commissioner**
Defendants

Civil Case No.:
3:24-cv-1577

COMPLAINT FOR
DECLARATORY
AND INJUNCTIVE
RELIEF

I. INTRODUCTION

1. This is a civil action seeking declaratory and injunctive relief arising from Defendants' refusal to allow the Plaintiffs to cancel the purchase of a home financed under the United States Department of Agriculture (USDA) Rural Development Loan Program, as guaranteed under federal law and regulations.
2. Plaintiffs bring this civil action pursuant to federal statutes and regulations governing the US Department of Housing and Urban Development, which guarantees certain protections for borrowers, including the right to rescind under specific circumstances.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. §1331 because this action arises under the laws and regulations of the United States.
4. Venue is proper in this district under 28 U.S.C. §1391 because the property at issue is located in the District of Puerto Rico, and the events giving rise to the claims occurred in this district. This Court may exercise supplemental jurisdiction over Plaintiff's state law claims under 28 U.S.C. §1337 (a) because those arise from the same nucleus of operative facts as Plaintiff's federal claims.

III. PARTIES

5. **Plaintiffs:** *Joan O'Neill Estrada, Maria Benita Nunez Adames and their Conjugal Partnership*, are residents of Fajardo, Puerto Rico, who entered a contract to purchase a real estate property financed under the USDA Rural Development Loan Program.

6. **Defendants:** Defendant *Home Mortgage Bankers* is the lender and/or loan servicer primarily responsible for enforcing the terms of the contract, and any associated agents or entities. Its NMLS ID: 157164 Its place of business is Ave. Sanchez Osorio, 3BS-5 60 Villa Fontana, Carolina, Puerto Rico 00983. With telephone number (787)769-1496. Defendant Home Mortgage Bankers is vicariously liable for the acts and omissions alleged herein, of the loan originator

Thanea M. Diaz Hernández and Janira Torres Diaz. Codefendant US Department of Housing and Urban Development, Office of Housing, Federal Housing Commissioner.

IV. FACTUAL BACKGROUND

7. On October 2023, the plaintiffs were interested in purchasing a home in the Barriada Buenos Aires, in Guarabo, they saw advertised online. On December 18, 2023, Plaintiffs entered into a contract to purchase a property located at *KM13.7 SR 181, Quebrada Infierno Ward, Gurabo, Puerto Rico 00778*, financed through the US Department of Housing and Urban Development, Office of Housing, Federal Hosing Commissioner. A federal loan program known as “RHS” with the loan number 9665-23. With FHA/VA Loan Number 63-045-643829032. This was a Federal-Rural loan to purchase a home.

8. Plaintiffs were informed that the loan would be subject to federal regulations, which include safeguards to protect buyers in rural areas. The Truth in Lending Act (TILA) provides the right of rescission under certain types of transactions. The Real Estate Settlement Procedures Act (RESPA) also allows plaintiffs to exercise their right to cancel the purchase, if defendant failed to make full disclosures with respect to loan terms, in this case, the right to rescind or cancel a purchase. The Federal Trade Commission (FTC) Rules on door-to-

door sales also allow buyers to cancel purchases within three business days if the sale was made at a location other than the seller's primary place of business.

9. During the loan approval process, despite plaintiffs' multiple attempts to inspect the property, the Plaintiffs discovered multiple issues with respect to the unlivable conditions of the home on the very day of the purchase, just after entering in the contract. The home purchased failed to meet federal program requirements, and defendant lender knew or should have known, but failed to disclose relevant terms of the purchase, including the right to cancel and/or rescind the purchase.

10. On the very same day, December 18, 2023, the parties entered into a contract to purchase the above referenced property, the plaintiffs exercised their right to rescind the purchase transaction, in writing, by notifying the codefendant lender directly via email at 6:31PM thru Janira Torres Diaz. Defendant lender had an obligation not to disburse, and act upon plaintiffs' timely request. Plaintiffs immediately notified Defendants of their intent to cancel the home purchase in accordance with applicable federal and state regulations, before the rescission period had expired. Defendant failed to respond and failed to act quickly with respect to plaintiff's request.

11. Defendants refused to honor Plaintiffs' right to cancel.

12. As a result of Defendants' actions, the Plaintiffs have suffered and continues to suffer both economic damages as well as mental anguish, as result of defendant failure to act upon their timely request to rescind the purchase.

V. CLAIMS FOR RELIEF

COUNT I – VIOLATION OF FEDERAL REGULATIONS

13. Plaintiffs incorporate by reference all preceding paragraphs.
14. Defendants' refusal to allow Plaintiffs to cancel the purchase violates federal regulations which guarantee buyers/consumers specific protections. Including violation of Consumer Financial Protection Bureau regulation 12 CFR Part 1026 (Regulation Z), specifically §1026.23 Right of Rescission and §1026.15 Right of Rescission. Defendant also violated The Federal Truth in Lending Act (TILA) which gives plaintiffs the right to cancel within three days.
15. Defendants' actions have caused harm to Plaintiffs, including economic damages and emotional distress/anguish as result of defendants' failure to act upon plaintiffs' timely request to cancel the purchase of the referenced home.

COUNT II – BREACH OF CONTRACT

16. Plaintiffs incorporate by reference all preceding paragraphs.

17. Defendants' refusal to comply with the terms of purchase agreement, including any contingencies or federal compliance requirements, constitutes a breach of contract. Defendant failed to disclose to plaintiffs all required legal disclosures, including their right to rescind or cancel the purchase of the home.

18. As a result, the Plaintiffs have suffered damages.

COUNT III – PUERTO RICO LAW

19. Plaintiffs incorporate by reference all preceding paragraphs.

20. Defendants' refusal to comply with plaintiffs' timely request to cancel the purchase of the home constitutes a violation of PR Law which allows for cancellation of the purchase within seven (7) days. See PR Law 31 LPRA Sec. 1893, constitutes a violation of applicable law. Defendant failed to disclose to plaintiffs all required legal disclosures, including their right to rescind or cancel the purchase of the home.

21. As a result, the Plaintiffs have suffered damages.

VI. PRAYER FOR RELIEF

WHEREFORE, the plaintiffs very respectfully ask that this Honorable Court:

1. Declare that Defendants violated Plaintiffs' rights under federal and state law regulations;
2. Issue an injunction requiring Defendants to allow the Plaintiffs to cancel the purchase without penalty;
3. Award Plaintiffs compensatory damages in an amount to be determined at trial;
4. Award Plaintiffs attorneys' fees and costs; and
5. Grant any further relief this Court deems just and proper.

VII. JURY DEMAND

Plaintiffs demand a trial by jury on all issues so triable.

In San Juan, Puerto Rico, on this 17 day of December of 2024.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an operation of the Court's electronic filing system. Parties may access this filing through the Court's system. I further certify that a copy of the foregoing pleading and the Notice of Electronic Filing will be served upon all parties for whom counsel has not yet entered an appearance electronically.

/S/ Humberto Cobo-Estrella, Esq.
Attorney for the Plaintiffs